

REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 235, “Rebate of Iowa Sales Tax Paid,” Iowa Administrative Code.

Pursuant to 2012 Iowa Acts, Senate File 2329, proposed rule 701—235.2(423) provides for a sanctioned baseball and softball tournament facility and movie site. Under this new rule, qualifying rebates of Iowa state sales tax may be made to the owner or operator of a sanctioned baseball and softball tournament facility and movie site, as defined in the rule, for sales occurring on or after January 1, 2014, and ending January 1, 2024. Under this rule, those requesting the rebate must complete and file with the Department of Revenue an affidavit for a sanctioned baseball and softball tournament facility and movie site.

The proposed amendment will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of this amendment would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that legislation that gives rise to this proposed rule will have an impact on small business by creating additional business opportunities and by fostering a more competitive marketplace. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than September 24, 2012, to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on this proposed amendment on or before September 11, 2012. Such written comments should be directed to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by September 11, 2012.

After analysis and review of this rule making, the Department has determined the legislation that gives rise to this proposed rule will have a positive impact on jobs by creating new retail and service businesses that can be staffed by Iowans.

This amendment is intended to implement 2011 Iowa Code Supplement sections 423.2(11) and 423.4 as amended by 2012 Iowa Acts, Senate File 2329.

The following amendment is proposed.

Adopt the following new rule 701—235.2(423):

701—235.2(423) Sanctioned baseball and softball tournament facility and movie site. Effective July 1, 2012, qualifying rebates of Iowa state sales tax may be made to the owner or operator of a sanctioned baseball and softball tournament facility and movie site as defined in this rule for sales occurring on or after January 1, 2014, and ending January 1, 2024. Qualifying rebates are for state sales tax only. Local option taxes are not subject to rebate under this program.

235.2(1) Definitions. For the purpose of this program the following definitions apply:

“Change of control” means any of the following:

1. Any change in the ownership of the original or any subsequent legal entity that is the owner or operator of the baseball and softball tournament facility and movie site such that more than 51 percent of the equity interests in the legal entity cease to be owned by individuals who are residents of Iowa, an Iowa corporation, or combination of both.

2. The original owners of the legal entity that is the owner or operator of the baseball and softball tournament facility and movie site shall collectively cease to own more than 50 percent of the voting equity interests of such legal entity or shall otherwise cease to have effective control of such legal entity.

“Department” means the department of revenue.

“Iowa corporation” means a corporation incorporated under the laws of Iowa where at least 51 percent of the corporation’s equity interests are owned by individuals who are residents of Iowa.

“Owner or operator” means a for-profit legal entity where at least 51 percent of its equity interests are owned by individuals who are residents of Iowa, an Iowa corporation, or combination of both and that is the owner or operator of a baseball and softball tournament facility and movie site and is primarily a promoter of baseball and softball tournaments.

“Population” means the population based upon the 2010 certified federal census.

“Sanctioned baseball and softball tournament facility and movie site” or *“facility”* means a baseball and softball tournament complex and tourist destination, which facility is located on a maximum of 279 acres, located inside or within three miles of the city limits of a city with a population of at least 4,000 but not more than 5,500 residents, which city is located in a county with a population of at least 93,000 but not more than 100,000 residents and where the construction on the baseball and softball tournament facility commenced not later than one year following July 1, 2013, and the cost of the construction upon completion was at least \$38 million.

235.2(2) Affidavit by owner or operator. The owner or operator of a baseball and softball tournament facility and movie site seeking a rebate of sales tax imposed and collected by retailers upon sales of any goods, wares, merchandise, admission tickets, or services furnished to purchasers at the facility must file with the department the following affidavit certifying that qualifications for the rebate have been met:

Iowa Department of Revenue
Sales Tax Rebate Affidavit

NAME OF AFFIANT	*	
	*	
ADDRESS OF AFFIANT	*	AFFIDAVIT FOR SANTIIONED BASEBALL AND SOFTBALL TOURNAMENT FACILITY AND MOVIE SITE
	*	

The undersigned duly swears that the named Baseball and Softball Tournament Facility and Movie Site complies with criteria to be entitled to rebate of sales tax as required in Iowa Code section 423.4 as follows:

1. The facility is sanctioned as a baseball and softball tournament facility and movie site;
2. The sanctioned baseball and softball tournament facility and movie site is located on a maximum of 279 acres of Iowa land;

3. The sanctioned baseball and softball tournament facility and movie site is located in a city with a population, as defined by the rules governing this program, of at least 4,000 but not more than 5,500 residents;

4. The city in which the sanctioned baseball and softball tournament facility and movie site is located is in a county with a population, as defined by the rules governing this program, of at least 93,000, but not more than 100,000 residents;

5. Construction of the sanctioned baseball and softball tournament facility and movie site was commenced on or before July 1, 2013;

6. Cost of construction of the sanctioned baseball and softball tournament facility and movie site upon completion is at least \$38 million; and

7. There has not been a “change of control” as defined in the rules governing this program regarding the legal ownership or operation of the baseball and softball tournament facility and movie site.

The undersigned duly swears that he or she is the owner or operator of the sanctioned baseball and softball tournament facility and movie site or that the undersigned is the authorized representative of the sanctioned baseball and softball tournament facility and movie site and has the authority to sign this document. The undersigned swears that he or she has personal knowledge regarding the facts contained in this affidavit and that the statements set forth in this affidavit are true and accurate and that the sanctioned baseball and softball tournament facility and movie site has met all of the requirements as contained herein.

Name of Affiant
Position of Affiant

Date

235.2(3) Notification to the department of revenue. The owner or operator of the sanctioned baseball and softball tournament facility and movie site shall provide the department with the identity of all retailers at the facility that will be collecting sales tax and shall keep the information current. The owner or operator of the facility shall notify the department within ten days of the termination of a retailer from collecting sales tax at the facility. In addition, the owner or operator of the facility shall notify the department within ten days of the start-up of a retailer collecting sales tax at the facility.

235.2(4) Limitations. The sanctioned baseball and softball tournament facility and movie site rebate program applies only to transactions that occur on or after January 1, 2014, but before January 1, 2024, and for which sales tax was collected. Only the state sales tax is subject to rebate. The rebate is limited to the Iowa sales tax rate. Local option taxes paid and collected are not subject to rebate. Rebates of sales taxes to a facility are not authorized for transactions that occur on or after the date of the change of control of the facility. The amount of sales tax revenues transferred from the general fund to the baseball and softball tournament facility and movie site fund is that portion of sales tax receipts remaining in the general fund after the department transfers, in the order prescribed:

- a. Local option sales taxes to those taxing jurisdictions imposing local option taxes;
- b. If the sales tax rate is increased to greater than 6 percent, an amount of sales tax equal to the amount generated by the increase in the tax rate—limited to 3/8 of 1 percent of the sales tax rate that exceeds 6 percent—to the natural resources and outdoor recreation trust fund; and
- c. One-sixth of the remaining sales tax revenues to the secure an advanced vision for education fund.

235.2(5) Termination of rebate program. The rebate program for the sanctioned baseball and softball tournament facility and movie site terminates on the earliest of the following dates:

- a. January 1, 2024; or
- b. Thirty days following the date on which \$16.5 million in total rebates have been provided; or
- c. Thirty days following the date of the change of control of the facility.

235.2(6) Sourcing of sales. Advance ticket and admissions sales shall be considered occurring at the sanctioned baseball and softball tournament facility and movie site regardless of where the transactions actually occur. Consequently, the state sales tax and any applicable local option tax in effect for the

jurisdiction in which the facility is located must be imposed on the purchase price of advance ticket and admissions sales.

Other types of sales eligible for rebate under this program include, but are not limited to, sales by vendors and sales at concessions, gift shops, and museums.

235.2(7) *Requirements to obtain a rebate of state sales tax by the sanctioned baseball and softball tournament facility and movie site.*

- a.* The rebate request must be submitted to the department on the authorized department form;
- b.* The rebate request form must be filed quarterly with the department and in a timely manner;
and
- c.* All the information requested on the rebate request form must be completed.

This rule is intended to implement 2011 Iowa Code Supplement sections 423.2(11) and 423.4 as amended by 2012 Iowa Acts, Senate File 2329.